UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,484	03/23/2004	Gary Vacon	160-068	3044

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EXAMINER
SATKIEWICZ, THOMAS E

ART UNIT	PAPER NUMBER
4183	

NOTIFICATION DATE	DELIVERY MODE
02/22/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

handerson@smmalaw.com
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Office Action Summary

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 March 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 March 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some *   c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date *02/06/2008*.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they

include the following reference character(s) not mentioned in the description: 15a-c.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the

specification to add the reference character(s) in the description in compliance with 37

CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the

application. Any amended replacement drawing sheet should include all of the figures

appearing on the immediate prior version of the sheet, even if only one figure is being

amended. Each drawing sheet submitted after the filing date of an application must be

labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37

CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The

objection to the drawings will not be held in abeyance.

Double Patenting

1.   The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees.   A nonstatutory
obviousness-type double patenting rejection is appropriate where the conflicting claims
are not identical, but at least one examined application claim is not patentably distinct
from the reference claim(s) because the examined application claim is either anticipated
by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140
F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29
USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.
1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422
F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163
USPQ 644 (CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d)
may be used to overcome an actual or provisional rejection based on a nonstatutory

double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2.   Claims 1-13 are provisionally rejected on the ground of nonstatutory double patenting over claims 2-14 of copending Application No. 10/807,005. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

3.   The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: With regards to Claim 1, a method of authenticating a client device for inclusion in a wireless network including the steps of: responsive to a user action at the client device and at one other device in the wireless network, determining a distance between the client device and the at least one other device in the wireless network; and authenticating the client device if the distance is within a preselected range of distances. The wording of claim 1 for the current patent application has the same wording of claim 2 from copending Application 10/807,005, but the copending application uses the word member in place of client device. In the copending Application 10/8007,005, in the following Specification sections "Field of the Invention" the term used is wireless devices, "Background of the Invention" the terms used are client devices and devices, "Summary of the Invention" the terms used are members, wireless devices, client devices, and master device, and "Detailed

Description" the terms used are devices, access device, client devices, wireless

devices, compatible devices, clients, handheld device, and third party devices. Plus in

the Detailed Description of the current patent application page 6 lines 10-12, it states,

"The wireless devices 16a-16c also have various architecture dependant names and

are herein referred to as "stations" (STAs), "clients" or "members" (of the WLAN 10)."

4.   With regards to claim 2, a method wherein the user action includes the

transmission of a signal to the client device. The wording of claim 2 of the current patent

application has the wording of claim 3 of the copending Application 10/807,005, but the

copending application uses the word member in place of client device.

5.   With regards to claim 3, a method, wherein the transmission of a signal to the

client device occurs in response to the depression of at least one button on the client

device. The wording of claim 3 of the current patent application has the wording of claim

4 of the copending Application 10/807,005, but the copending application uses the word

member in place of client device.

6.   With regards to claim 4, a method, wherein the transmission of a signal to the

client device occurs in response to a radio transmission by the user in the proximity of

the client device. The wording of claim 4 of the current patent application has the

wording of claim 5 of the copending Application 10/807,005, but the copending

application uses the word member in place of client device.

7.   With regards to claim 5, a method ,wherein the radio transmission by the

user is performed using the at least one other device in the wireless network. The

wording of claim 5 of the current patent application has the wording of claim 6 of the

copending Application 10/807,005, but the copending application uses the word member in place of client device.

8.   With regards to claim 6, a method, wherein the at least one other device is a fob. The wording of claim 6 of the current patent application has the same wording of claim 7 of the copending Application 10/807,005.

9.   With regards to claim 7, a method, wherein the user action includes the disconnection of power from the client device. The wording of claim 7 of the current patent application has the wording of claim 8 of copending Application 10/807,005, but the copending application uses the word member in place of client device.

10.   With regards to claim 8, wherein the step of determining the distance between the client device and the at least one other device includes the steps of waiting for a received a signal from the at least one other device. The wording of claim 8 of the current patent application has the wording of claim 9 of the copending Application 10/807,005, but the copending application uses the word member in place of client device.

11.   With regards to claim 9, wherein the client device is not authenticated if more than one signal is received during the step of waiting. The wording of claim 9 of the current patent application has the wording of claim 10 of the copending Application 10/807,005, but the copending application uses the word member in place of client device.

12.   With regards to claim 10, further including the step of measuring a strength of the signal received from the at least one other device and associating the strength of the

signal with a measured distance. The wording of claim 10 of the current patent

application has the wording of claim 11 of the copending Application 10/807,005, but the

copending application uses the word member in place of client device.

13.   With regards to claim 11, further including the step of determining whether the

measured distance is within the predetermined range of distances. The wording of claim

11 of the current patent application has the wording of claim 12 of the copending

Application 10/807,005, but the copending application uses the word member in place

of client device.

14.   With regards to claim 12, further including the step of identifying a master device

in the wireless network. The wording of claim 12 of the current patent application has

the wording of claim 13 of the copending Application 10/807,005, but the copending

application uses the word member in place of client device.

15.   With regards to claim 13, further including the step of storing an identifier of

the client device and the at least one other device in a table in the client device. The

wording of claim 13 of the current patent application has the wording of claim 14 of the

copending Application 10/807,005, but the copending application uses the word

member in place of client device.

Claim Rejections - 35 USC § 103

16.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

17.   Claims 1,2, 4-8, 10, 11, 13-15, 17, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Ji et al. (US PGPub 2004/0,103,275)

1.   With regards to Claim 1, Ji teaches a method of authenticating (Snownet node; 302, Fig #5, is also called a Authenticator) a client device (Supplicant; 310, Fig #2) for inclusion in a wireless network (System Network; 300, Fig #2) including the steps of: responsive to a user action at the client device (Supplicant; 310, Fig#2) and at one other device (Snownet node; 302, Fig#2) in the wireless network (System Network; 300, Fig#2), determining a distance (Client Coverage; 308, Fig #2) between the client device (Supplicant; 310, Fig#2) and the at least one other device (Snownet node; 302, Fig#2) in the wireless network (System Network; 300, Fig#2); and authenticating (Snownet node; 302, Fig#5) the client device (Supplicant; 310, Fig#2) if the distance is within a preselected range of distances (Paragraph 0037, supplicant will work within a coverage area of a Snownet node which is a preselected distance).

2.   With regards to claim 2, Ji teaches a method wherein the user action includes the transmission of a signal to the client device (Paragraph 0043).

3.   With regards to claim 4, Ji teaches a method, wherein the transmission of a signal to the client device occurs in response to a radio transmission by the user in the proximity of the client device (Paragraph 0055).

4.   With regards to claim 5, Ji teaches a method, wherein the radio transmission by the user is performed using the at least one other device in the wireless network (Paragraph 0055).

5.   With regards to claim 6, Ji teaches a method, wherein the at least one other

device is a fob (Snownet; 302, Fig#2; Paragraph 0047).

6.   With regards to claim 7, Ji teaches a method, wherein the user action includes

the disconnection of power from the client device (Paragraph 0049, Lines 9-14).

7.   With regards to claim 8, Ji teaches a method, wherein the step (Predefined

Trigging Event (Paragraph 0074, Line 3) would be when the supplicant moves a

predefined distance away from the establish connected snownet node and closer in

distance to the new snownet node with a new communication link) of determining the

distance between the client device and the at least one other device includes the steps

of waiting for a received a signal from the at least one other device (Client Coverage;

308, Fig#2; Paragraph 0037).

8.   With regards to claim 10, Ji teaches a method, further including the step of

measuring a strength of the signal (Predefined Triggering Event; Paragraph 0074, Line

3) received from the at least one other device and associating the strength of the signal

with a measured distance (Paragraph 0096).

9.   With regards to claim 11, Ji teaches a method, further including the step of

determining whether the measured distance is within the predetermined range (Service

Area; Paragraph 0073, Lines 1-2) of distances Paragraph 0073).

10.   With regards to claim 13, Ji teaches a method, further including the step of

storing (Client Authentication; 526, Fig#4) an identifier of the client device and the at

least one other device in a table in the client device (Paragraph 0053-0054).

11.   With regards to claim 14, Ji teaches an apparatus (Snownet; 302, Fig#5) for

authenticating (Authenticator; 302, Fig#5) a client device (Supplicant; 310, Fig #2) in a

wireless network (System Network; 300, Fig#2) including at least one other device

(Snownet; 302, Fig#2): means for detecting (Paragraph 0036, Lines 2-7) a user action

at the client device; means for receiving (Paragraph 0073), at the client device, a signal

transmitted from the at least one other device in response to the user action(Paragraph

0079); means for determining a distance between the client device and the at least one

other device (Coverage Area;308, Fig #2); and means for authenticating the client

device and the at least one other device if the distance is within a preselected range of

distances (Paragraph 0074; Predefined Triggering Event is the movement between the

coverage areas of the Snownet node).

12.   With regards to claim 15, Ji teaches an apparatus, wherein the means for

determining a distance operates in response to a strength of the signal (Paragraph

0075).

13.   Claim 17, Ji disclose the claim invention above, but fails to specifically disclose a

wireless device (Snownet: 302, Fig#2; Paragraph 0126, Lines 2-4) for use in a wireless

network, comprising: a memory (Storage Memory; 404, Fig#3; Paragraphs 0051-0053)

for storing a table (Bridging Table; 400, Fig#7) of identities of member devices of the

wireless network, wherein the identify of each member device is only stored in the table

after the member device is authenticated, and wherein each member device is only

authenticated if its physical proximity to another member of the wireless network is

within a preselected range during authentication of the respective member (Paragraph

0112 and Paragraph 0037, supplicant will work within a coverage area of a Snownet

node which is a preselected distance).

14.   With regards to claim 18, Ji teaches a computer (Fig#3) having a memory

(System Memory; 403, Fig#3) for storing computer readable program code (Data

Storage Memory; 404, Fig#3) thereon, a computer program (Node Authentication; 516,

Fig#4) for authenticating a client device for inclusion in a wireless network (Paragraph

0053), the computer program including: program code operating responsive to a user

action at the client device and at one other device in the wireless network (Paragraph

0054), for determining a distance between the client device and the at least one other

device in the wireless network (Paragraph 0055); and program code for authenticating

the client device if the distance is within a preselected range of distances (Paragraph

0055, supplicant will work within a coverage area of a Snownet node which is a

preselected distance).

Claim Rejections - 35 USC § 103

15.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

16.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

        1.   Determining the scope and contents of the prior art.

2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

17.   Claims 3, 9, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ji (USPGPub 2004/0,103,275).

18.   Claim3, Ji discloses the claimed invention above, but fails to specifically disclose a method, wherein the transmission of a signal to the client device occurs in response to the depression of at least one button on the client device.

19.   However, Ji discloses an Extensible Authentication Protocol (EAP) handshake (Paragraph 0062, Line 3) between the Snownet node and the supplicant that starts the authentication of the supplicant (Paragraph 0062).

20.   Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to press a key or button on the keyboard or dial pad on the supplicant to start the authentication of the supplicant with the Snownet node.

21.   Claim 9, Ji disclose the claimed invention above, but fails to specifically disclose a method, wherein the client device is not authenticated if more than one signal is received during the step of waiting

22.   However, Ji discloses a function that executes a scan, authentication, and association (Paragraph 0079).

23.   Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant' s invention was made that the receiving of more than one signal is

not a problem, because Ji's invention would use the strongest signal and discard all the

other signals.

24.   Claim 12, Ji disclose the claimed invention above, but fails to specifically disclose

a method, further including the step identifying a master device in the wireless network.

25.   However, Ji discloses that Snownet nodes providing local access services will

have it own sub-networks and manage the addresses.

26.   Therefore, it would have been obvious to one of ordinary skill in the art at the

time the applicant's invention was made that the Snownet node was the master device

and the supplicants in the Snownet node area were the slave devices.

27.   Claim 16, Ji disclose the claimed invention above, but fails to specifically disclose

an apparatus, wherein the means for authenticating further includes means for

determining that only one signal is received by the client device in response to the user

action.

28.   However, Ji discloses a function that executes a scan, authentication, and

association (Paragraph 0079).

29.   Therefore, it would have been obvious to one of ordinary skill in the art at the

time the applicant' s invention was made that the receiving of more than one signal is

not a problem, because Ji's invention would use the strongest signal and discard all the

other signals.

30.   **Conclusion**

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to THOMAS E. SATKIEWICZ whose telephone number is

(571)270-1948. The examiner can normally be reached on Monday to Thursday7:30AM to 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas E Satkiewicz/
Examiner, Art Unit 4183

/Len Tran/
Supervisory Patent Examiner, Art Unit 4183